



City of Carmel

Carmel Board of Zoning Appeals Regular Meeting Monday, November 27, 2006

The regularly scheduled meeting of the Carmel Board of Zoning Appeals met at 6:00 PM on Monday, November 27, 2006, in the Council Chambers of City Hall, Carmel, Indiana. The meeting opened with the Pledge of Allegiance.

Members in attendance were Kent Broach, Leo Dierckman, James Hawkins, Earlene Plavchak and Madeleine Torres, thereby establishing a quorum. Angie Conn and Mike Hollibaugh represented the Department of Community Services. John Molitor, Legal Counsel, was also present.

Mr. Dierckman moved to approve the minutes of the October 23, 2006 meeting as submitted. The motion was seconded by Mrs. Torres and **APPROVED 5-0.**

Mrs. Conn gave the Department Report. She listed the items on the agenda that had been tabled. Only two items would be heard at this meeting.

Mr. Molitor gave the Legal Report. In regard to Items 4-5h, they were heard last month and resulted in a 2-2 vote. Under the BZA Rules and State Law, that petition needs to be re-heard from its inception this evening so that all five members have the opportunity to hear the testimony to make the decision this evening. There will be a brief Executive Session at 7:00 PM or following this meeting. Mr. Broach has recused himself from this item and would not need to attend the meeting.

H. Public Hearing:

1h. TABLED UNTIL DEC. 18: Lubavitch of Indiana Worship Center

The applicant seeks approval for the following special use & development standards variance approvals:

Docket No. 06050007 SU Chapter 5.02 Special Uses

The site is located at 2640 W 96th Street and is zoned S-1/Residence.

Filed by Dave Coots of Coots, Henke & Wheeler, P.C.

2-3h. TABLED UNTIL DEC. 18: Bill Estes Pre-Owned Facility

The applicant seeks the following development standards variance approvals:

Docket No. 06090020 V Chapter 26.04 north buffer yard reduction

Docket No. 06090023 V Chapter 23C.10.3.5(c) screened parking within front/side yard. The site is located at 4102 W. 96th St and is zoned B2/Business and I1/Industrial within the US 421 Overlay. Filed by Mary Solada of Bingham McHale.

4-5h. Monon & Main, Unit 2E

The applicant seeks the following development standards variance approvals:

Docket No. 06090026 V Section 15.26 of PUD Z-462-04 non-residential on 2nd & 3rd flr

Docket No. 06090027 V Section 2.13.B of PUD Z-462-04 2-car garage requirement

The site is located northeast of Third Ave NW and Main St., and is zoned PUD/Planned Unit Development. Filed by Vicky Earley of Artichoke Designs.

Present for the Petitioner: Jim Shinaver, Nelson and Frankenberger. The two variances relate to the Monon & Main PUD Ordinance. The variances relate to the non-residential use on the second and third floors of the unit and also the requirement for a 2-car garage. This is a very low impact type of use and as the Staff Report indicated it would generate very little vehicular traffic. He understood that at the last meeting there was discussion regarding parking availability near this site. Their clients usually visit by appointment only as it relates to the interior design aspect of the Artichoke Designs business. Few employees are on-site during business hours. Many of the designers are independent contractors from the surrounding area. None of them have a permanent office within the location. Typically they would come when there is a need to visit a client to go over a particular project. Secondly, this use will generate very little traffic. A site plan was shown. In regard to parking, there are parking spaces available on-site within the Monon & Main development. There are approximately 38 spaces within this community and the majority of this community is intended to be a residential community. The likelihood is that during business hours many of the parking spaces will be open while the residents are at their jobs. That would open parking availability within the site. They are also adjacent to Main Street and believe there will be parking opportunities on Main Street and along adjacent roadways. It was his understanding that Staff received a letter from Les Olds, Director of the Carmel Redevelopment Commission that explained some of the intentions and plans by the City to construct a parking garage in this vicinity as well as other parking plans and ideas in this general area. They felt these factors would result in no problems for parking. The current location for this business is at the southwest intersection of Main Street and Range Line Road. The clients visiting that location are used to parking within the general vicinity and walking to the store.

Public in favor:

John Swinehart, representing Gunstra Builders, the developer and builder of the Monon & Main project with offices in the Castleton area. As the developer and builder, they do support the request for these variances. They believe it will be beneficial to the Monon & Main community as well as the general development of the downtown area. They felt that these requests, as well as other appropriate small boutique-type of businesses in this development along Main Street, would be of great benefit to businesses in the area. They think that owners of other units who may want to request variances for low-impact type of businesses also will have the same kind of feeling about the Earley's request. They do not believe it will be detrimental to any of the properties. They encouraged the Board to approve this request. Any other requests that would come before the Board should be looked at on their own merits and uses.

Pat Robinson, 3277 Smokey Ridge Circle, Carmel. At the last meeting he was opposed to the variances because of his concern with the parking. He owns the property immediately north of this project. They already have severe parking problems. His concern was with the traffic because trucks and cars already drive in his yard and on the sidewalks. His concerns are just as vivid. Trucks cannot go in and out on the current road which is 13.5 to 14 feet wide. Two semis or a semi and a rescue/fire truck cannot pass. That's when they drive on the sidewalks and in the yards. He changed his position tonight because he had talked with Mayor Brainard and he has been assured that next year the street will be re-done. That will allow for more parking spaces and traffic when the street is 21 feet wide. Now he is in favor of the proposal.

The Public Hearing was closed.

Mrs. Conn gave the Department Report. An addition was made in the Department Report to show all of the parking areas that have recently been developed by the Carmel Redevelopment Commission or that are in the works. Also there was a letter from Les Olds stating there will be a parking garage built east of the Monon & Main Development. The Department is in favor of both variance requests. If the Board wants conditions or a time limit could be imposed on any approval.

Mrs. Plavchak preferred the property to stay this particular business and this particular business owner. She felt they needed to keep a handle on what businesses would be used there.

Mr. Molitor stated under State Law variances cannot be granted on a personal basis, they run with the land. The variance could be conditioned on the type of use or the type of business, but not to the name of the business or the particular business owner. The Board could limit it to a particular type of business so that it would not be a generalized variance that would allow any type of business or retail use.

Mr. Hawkins asked if that was acceptable to the Petitioner.

Mr. Shinaver stated the Petitioner was hoping to apply this to interior design type companies with some flexibility so that another low-impact use could avail themselves to this type of Use Variance. They were not seeking a variance intended for a retail nature, but were hoping for some flexibility for another low-impact use similar to an interior design type of business.

Mrs. Torres asked Mr. Molitor how they could do that. She also felt strongly they were approving Mrs. Earley's proposal and not every business use. She understood the variance ran with the property, but how could they rein it in?

Mr. Molitor assumed the Petitioner did not wish to limit the variance to just an interior design business. However, that is within the Board's authority to grant the variance for only an interior design business. The Board could limit the variance to an interior design business or some other type of professional office use, such as an accountant.

Mrs. Torres asked if they would need to come before the Board to change it to whatever they wanted, such as law offices, etc.

Mr. Molitor stated they could not make it come before the Board based on change of ownership because the variance runs with the land. But it could be set so that the owner came back to the Board with a change in the type of business from an interior design to something else. Or the variance could be subject to a renewal after a period of years.

Mr. Dierckman wondered if an architectural design type of definition would be broad enough. Low-impact could be pretty broad.

Mr. Shinaver appreciated the openness. They were willing to meet with what the Board desired. Other types of low-impact businesses they were considering were an art studio, small art gallery and things like that. Looking at the list of businesses that originally came with this project, it might be easier to

cross some of those off the list because they are a higher impact nature. Maybe it would be appropriate to have a brief recess on this matter. He could brainstorm with his clients and continue this Petition after the next item on the agenda.

Mr. Broach stated that the Department Report referenced an interior design consulting business and art studio and the Board could say any related or similar businesses. That would be acceptable to him.

Mr. Dierckman thought that would be better than to put a time limit on it that would make it more hectic for future Board members.

This item was recessed to the end of the Public Hearings.

6h. TABLED UNTIL DEC. 18: Forest Glen, Lot 3 - Printing Plus

The applicant seeks the following use variance approval for an office use:

Docket No. 06090012 UV ZO Chapter 6.01 Permitted Uses

The site is located at 2110 E. 96th St. and is zoned S-2/Residence.

Filed by Col. Rex A. Neal of Printing Plus.

7-8h. TABLED UNTIL DEC. 18: Monon & Main, Unit 2B

The applicant seeks the following development standards variance approvals:

Docket No. 06100010 V Section 15.26 of PUD Z-462-04 non-residential uses on 2nd & 3rd floors

Docket No. 06100011 V Section 2.13.B of PUD Z-462-04 2-car garage requirement

The site is located northeast of Third Ave NW and Main St., and is zoned PUD/Planned Unit Development. Filed by Susan Karimi.

9-10h. West Carmel Center Office Park, Ph II (West Carmel Center, Blk E)

The applicant seeks the following development standards variance approvals:

Docket No. 06100014 V Section 23C.09.D façade offsets

Docket No. 06100015 V Section 23C.10 and 26.04.05 buffer yard requirements

The site is located southeast of Commerce Dr. and Carwinion Way and is zoned B-5/Business.

Filed by Mike Jett of American Consulting for West Carmel I, LLC.

Present for the Petitioner: Tony Halsey, American Consulting, 7260 Shadeland Station, Indianapolis. Block E, Phase I of West Carmel Center Office Park was approved in 2005. A site plan was shown. The project would be four office buildings of approximately 8000 square feet each, the same as Phase I. The variance is requested for the landscape buffer. According to Code the landscaping buffer must run along the property line. The property line is in the pond, which would make the plantings under water. They would use the required number of plantings on their side of the pond which would provide substantial screenings. They received approval for this same variance for Phase I. The neighboring subdivision had supported Phase I. They had not received a response from their October 23rd contact with the President of the Homeowners Association. The pond also provides a wide buffer from the residential area. By Code the façade offsets should bump out eight feet. They are proposing four-foot bump outs because with the size of the buildings, an eight-foot notch would look disproportionate. Pictures of Phase I were shown. This same variance was approved for Phase I on July 25, 2005.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

The Public Hearing was closed.

Mrs. Conn gave the Department Report. Phase II is a mirror image of Phase I and the variances being requested are basically the same that were approved in July 2005. The Department recommended positive consideration of both Dockets.

Mr. Hawkins moved to approve **Docket Nos. 06100014 V and 06100015 V, West Carmel Center Office Park, Phase II.** The motion was seconded by Mrs. Torres and both were **APPROVED 5-0.**

11h. TABLED UNTIL DEC. 18 - CMC Properties, Sec 2, Lot 3 - Holiday Inn

The applicant seeks the following use variance approval for a full-service hotel use:

Docket No. 06100016 UV Section 16.01 permitted uses

The site is located at the northwest corner of 131st St. and Meridian St. and is zoned B-5/Business within the US 31 Overlay.

Filed by DeBoy Land Development Services, Inc for Motels of Carmel, LLP.

Items 4-5h. Monon & Main, Unit 2E continued.

Mr. Shinaver thanked the Board for the opportunity to speak with his clients and to get some input from Mike Hollibaugh. They proposed that the uses be limited to an interior design studio, art studio, art gallery, art center and similar types of businesses. He felt that for the similar types of businesses, the Planning Director would have the ability to review a building permit and determine if a business fell into the appropriateness of similar. Along with those uses, they also asked the Board to consider allowing small general office and small professional office uses as well. For example a small law firm may want to locate in a particular unit.

Mr. Hawkins did not mind the art center and art gallery, studio, etc. But he did not want to create a situation with this variance that would take away the ability to do something further east on Main Street. People have spent a lot of money along East Main Street trying to develop it. He could not support the small general offices in this area.

Mr. Hawkins moved to approve **Docket Nos. 06090026 V and 06090027 V Monon & Main, Unit 2E** with the **Condition** that the facility may only be used for interior design studio, art studio, art gallery, art center or similar use. The motion was seconded by Mr. Dierckman and both dockets were **APPROVED 5-0 as stated.**

I. Old Business

There was no Old Business.

J. New Business

There was no New Business.

K. Adjournment

Mr. Hawkins moved to adjourn. The motion was seconded by Mr. Dierckman and **APPROVED 5-0**.
The meeting adjourned at 6:40 PM.

James R. Hawkins, President

Connie Tingley, Secretary